

Wetlands Advisory Task Force

MINUTES

FEBRUARY 14, 2012

701 NW 1 COURT
2ND FLOOR TRAINING ROOM

MEETING CALLED TO ORDER	By Chair at 1:18pm		
MEMBER ATTENDEES	Present: Patricia Baloyra Manuel Echezarreta Jose K Fuentes Jose M. Gonzalez James F. Murley Alice Pena Stephen A Sauls	Absent:	Present Non Voting: Ray Scott, FDAC – Office of Agricultural Water Policy Ron Peekstok, SFWMD Jennifer Smith, FDEP SE District

Agenda topics

WELCOME AND ANNOUNCEMENTS

LEE HEFTY, ASSISTANT DIRECTOR, PERA

DISCUSSION	<p>Chair reconvened meeting from January 11, 2012. Motion to adjourn was made by Patricia Baylora and seconded by Jose Gonzalez. Motion passed with no objection. Meeting of February 14, 2012 was called to order.</p> <p>The Chair recognized Mr. Lee Hefty for updates.</p> <p>Mr. Hefty advised members that the Board of County Commission approved a 2 month extension of the Wetland Advisory Task Force to complete their task and that based on the extension, the new date for sunset is March 17, 2012.</p> <p>Mr. Hefty also advised the members that the minutes from the December 19, 2011 meeting have been posted to the website. He further advised the members that an email containing the draft memorandum, report and proposed recommendations from the public as an appendix were sent to all of the members for review.</p> <p>The Chair advised the members that he did meet with staff, as per the motion from the members, to prepare the draft memo/report and further advised the members that the document prepared is not a staff document nor does it reflect the opinion of the administration or the staff of PERA.</p> <p>Discussion with members</p>
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APPROVAL OF MINUTES FROM JANUARY 11, 2012 MEETING

JAMES F. MURLEY – CHAIR – WATF

DISCUSSION	<p>Motion was made by Manuel Echezarreta to amend the minutes from the January 11, 2012 meeting to reflect that the meeting was reconvened on February 14, 2012 and then adjourned. Motion was seconded by Patricia Baylora. Hearing no further amendments to the minutes, adoption motion was made by Steve Sauls and seconded by Manuel Echezarreta. Motion passed with no objections.</p>
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REVIEW OF WATF DRAFT MEMO/REPORT

JAMES F. MURLEY – CHAIR - WATF

DISCUSSION	<p>The Chair recognized staff to give an overview of how the document was put together.</p> <p>Mr. Matthew Davis gave a summary of the general content of the memo/report.</p> <p>The Chair opened the meeting to amend the document as per the member's recommendations.</p> <p>Member discussion for amendments to recommendations</p> <p>Motion was made by Jose Gonzalez to extend the meeting beyond the scheduled time and table the discussion at hand to allow for public comment. Motion was seconded by Manuel Echezarreta. Motioned passed with no objection.</p>
ACTION ITEM	<ul style="list-style-type: none"> • Provide a brief summary before each recommendation or group of recommendations • Assure that the document contains current language for identifying the department, PERA instead of DERM to be consistent through the document and indicate in the opening paragraph the transition taken place with the department • Chair asked staff to use bon a fide agriculture consistently through the document • Mr. Charles LaPradd requested that the terms of the covenant be developed and the definition for dredge and fill.

DISCUSSION

The Chair opened the meeting for public comments and reminded the public to please keep comments below 3 minutes.

Edward Chapman

"I have two things, one is that a conservationist once explained to me that pristine wetlands is what you pass going out to Tamiami Trails 25 miles out. Its all saw grass, water covers it during wet season and it flows across it and then you have high impact and low impact wetlands. Low impact is fringe areas around where they do get some water and they have some wetland plants and then high impact, is where you do get still a few wetland plants, but its been impacted by either agriculture or equal activities to a point where it's really not re-established very well and easily to what it was before. The other thing was it says that in 2011 the State legislature revised an exemption and the stipulations were that the activities has to be considered normal and customary and not for the sole or predominant purpose of impounding or obstructing surface water. It goes on and explains some of this. What you have here, however in the 8.5 SMA is you have a seepage canal through the center and you have a complete levee around the entire area and it was all subjected to high impact work. Because of that, it has already substantially impeded the flow of water through the area. Basically made a basin inside which holds the water and the only way to get it out is by pumping from the seepage canal. So if you let something sit long enough in there, you're going to get some wetland plants, but I don't think its right you consider it a pristine wetlands and make you pay \$50 or \$70,000 an acre for wetlands restoration or wetlands mitigation when there's no way you could ever classify like that again."

Alice Pena commented especially since there is no flow of water in that area.

Jose Fernandez

"I am going to speak about the constitution and I have some questions for you. When you got your position did you swear to protect and defend the United States Constitution? For you too.....

Mr. Fernandez was advised by the Chair that he could make his comments for the record and not require staff to respond.

"Well, they don't need to respond. I just want to make it clear that you know that in the United States Constitution, what you are doing it is breaking it, violating the civil rights, the publics rights, the due process rights and do you know when you do that under the cover of law, that is crime payable by 10 years of jail and it's got no limit. You can say to Carlos Espinosa that if he thinks that that is over, we are very way far from over. Ok. This is not an investigation or nothing, people are suffering. My wife is still exiled. When I gave you the paper the last time I was here, they killed my mare, if it's not them, it's the commissioners, if not it's the miners, who has a lot of money and paid this guy millions to send masonries to my place. My boy 14 years old, I have to make him go to school and he sleeps with a gun under his pillow. I want you to know that, thanks to them. Everybody will be accountable at the end and I see a bunch of you in jail and I see a bunch of you with no license. That's all I have to say, thank you."

Laura Reynolds – 553 Sunset Drive – Tropical Audubon

"That's a tough act to follow. Unlike some of the other members here, id didn't receive this document till today, because I guess there's 100 environmental issues being worked on. I talked to Evan Skornick and he said that he is going to send it to me so that I can review it."

Ms. Reynolds was advised that the members received it today as well.

"I just took a look at it today, so I would like to give you some comments again with a letter if that's ok. But just on the last point that you raised, you hit on an issue that I would like to address. That is the high quality/low quality issue. I think its really easy to incentivize the degradation of wetlands if you put that into a specific amount. In other words, if I'm a landowner and I would like to stay out of the permitting process, why wouldn't I just let the invasive take over my wetlands. So this is something I want to caution you about, I think that a lot of the wetlands are easily restored with the proper hydrology, removal of exotics, I mean these are issues that almost every piece of green space in Dade County, you're dealing with invasive exotics, so if the proper hydrology were put back on that land, if exotics were removed and managed and we had tons of funds to do that, it would be a pristine wetland. This is an issue that warrants further discussion and I'd like to see, maybe bring in an expert who can talk about this issue. I think you hit a chord here, high quality vs. low quality, that's a concern, I don't think UMAM scoring is the best way to do it, but that's how it's done. So, I'd like to see that readdressed and I'd love to have a copy of this so I can give more in depth comments. Thanks."

Chair advised the public that as soon as there is another draft, we will notice on the website for viewing.

"I wanted to bring up one more issue, I just looked at my notes and remembered. Something happening in the northern everglades that we might take note of here, where farmers and environmentalists are trying to work together, which is a great idea. I can't remember the name of the project, but basically you are agreeing to transfer your development rights on property, hold water as long as you can on your land, go through a series of best management practice and in return your land in perpetuity is in ranching, in agriculture and I think a series of grants from USDA and other entities are being used. I think something in Dade County to protect ag needs to happen. I know this has been discussed in the past, maybe under different studies like the watershed study and others. But that's the kind of thing that will protect ag from development, where we set aside land for agriculture period and that's it. I think we need agriculture. I shop every weekend at a local farm store where I can get all locally farmed food. This is the way that people want to shop now, so it isn't environmentalist vs. ag, I think we need to come together and realize that if you remove that wetland process, you are opening the door to make it harder to keep it an ag. So I would love to see ways that we can work together like they are in the northern everglades."

Kerri Barsh

"Good afternoon and happy valentines day to everyone. I noticed that in the draft report my comments weren't included because they weren't in writing, so I would like to present an original to the chair and a copy for the remainder. These are basically comments from the Miami Dade Limestone Products Association. On January 31st, the association had its meeting and unanimously we talked about two specific recommendations that had been discussed, both of which you haven't gotten yet. I hope that when you meet again that was referred to when you discussed in the minutes, that is the delegation issue. We again reaffirm in writing our objection to be included in that delegation and we voted unanimously and that the MDLP is made up of the major permittees and those would be Cemex, White Rock Quarries, Vulcan Materials and Titan. They all voted unanimously and these were the principals of the company at this time to oppose the delegation. We know that it requires us to have another permit, but we believe that the expertise that the State provides and the fact that the State, those of you from the Water Management District are aware of, we have a lake belt mitigation committee that is composed of both the county and federal and state agencies. We think at this time that the process should continue without delegation. So we respectfully request that rock mining be exempted from that."

"The second item I've spoken on before and is also articulated in the document and that is with respect to the outreach. I know and I certainly understand that outreach and knowledge is a good thing in terms of regulations. But I do think that requiring, as a condition of any sale, that the County undertake a wetland determination and that it be a mandatory disclosure, it kind of goes overboard. In particular, I will speak on two aspects of that. With respect to my clients in particular, in January of 2010, the US Army Corps of Engineers issued what is called the Supplemental Environmental Impact Statement, which was a very exhaustive and several year process which was conducted by third party contractors from the Army Corps and many of the agencies here participated. Unfortunately, our clients paid for that and it was a large sum. We do not want to have to fund an outreach of wetlands determination on properties that have already been determined to be wetlands. We think that's over reaching, moreover, we think the mandatory disclosure is probably an unreasonable restraint on alienation as a matter of Florida law, but I'm not going to get into that today. I'm just going to tell you as a matter of the MDLPA, we strongly oppose that as well, because we feel that is unnecessary for us to go to the County to get a determination, moreover, it would slow up any kind of deal that we have to do, knowing that in fact it has already been determined to be wetlands. So with respect to those two principle items, we voiced ours in writing. The other thing that we commented on in general is that we are supportive of streamlining goals. We may have further comments, but the ones that affected the most we've outlined and there was one exemption that you probably talked about earlier today, when there was a numeration I guess about exotic species and in the language there was some talk about conservation on those types of things. We support that as modified to say if there's a determination that there's no adverse environmental impact that it should be permitted without the caveat it be for environmental restoration, it should be a determination and we support that as a collateral matter, we may have additional comments later, but at this time and in connection with your next meeting at least you have our position in writing and it will be reflected in the record. I don't have anything more, I thank you so much for your time and if you have any questions, I will be around a little bit later to discuss."

Steve Carney, President – Carney Environmental

"Is this document the sum total of things under consideration right now? The reason I ask is, I know on a couple of occasions its come up about Class I vs. Class IV permit application and the applicability of halophytic vegetation and I didn't see any mention of that in here at this point."

Staff addressed Mr. Carney's question.

"As far as your concerns Mr. Sauls for high quality wetlands, an idea might be, one of my ideas so it's half baked, is soil types. There are a number of soil types that are attached to agriculture. One being Chekika gravelly loam and soil. It got its name because it was rock plowed years ago. Some of these areas that have, may still be in agricultural, a lot of areas that have Chekika gravelly loam that are out of agriculture and they have either repopulated with Brazilian pepper, Melaleuca, in some cases they've come back with pretty good wetlands. But I guess it's a starting point in the quest of figuring out what's high quality vs. low quality wetland for agriculture. We might take that sort of shape file, using GIS terms, and say that those lands, while they may be wetland soils are not high quality and that there are no longer pristine because they have been impacted at some point in the past by agriculture. I can think of one guy that I represented down in South Dade. I was happy to see there's discussion about going back 25 years to see if a property had been an agriculture. This guy's property had been an agriculture back in 1972, I think, row crops that was left to go fallow. It became a Brazilian pepper thicket, he went in, he farmed it without a permit. He put in a tree farm and he got hammered pretty well with mitigation with a 100% impact with all his rows. I think the property was 6 acres, so he was hit with 3 acres, 100% impact and the other 3 acres with something less, I don't remember. It seems kind of unnecessary in this case because it was a Brazilian pepper thicket. But again this would be a situation where we could look at soil types created by soil conservation service, not anybody in this room as kind of acting as a intermediation between sides and look at those areas, if we can't go with a complete state exemption here in Dade County, to look at previously impacted under agriculture in the past would be exempt under the state statute and if we were venturing off into new wetland types or new wetlands that had not been farmed in the past, then we look at things like the cover of exotic plants and those sorts of things. Thank you."

Pamela Evans

"A couple of different things, first of all, I wanted to find out, doesn't the state have a definition for high quality medium?"

State responded.

"Ok, on section 1 line 20, duplicating what Mr. LaPradd said about dredging and filling, because it's kind of vague on that, because if you are planting trees or doing a nursery, its not really specifying how much fill or how much digging,

	<p>it's a very vague definition. Also on page 4, section 2, I think that they're deciding if a land is a wetland, they're using all government entities to decide and I think the people should have the right to use an independent counsel. I know in a couple of cases some people had soil engineers to determine if the soil was wetlands and I think they should be able to have independent counsel as well as using the government entities. I think that's very important."</p> <p>"Also, section 5 line 162-163 where you talk about an outreach. I think there needs to be a timeframe that you cant just say we are going to have an outreach to talk to these landowners and it goes on forever and ever because by the time you talk to them, they won't have any property left. Also, I think that my vote, if I had a vote, would be for the state ruling, the HB421, the exemption. I think that if that happens, then the people should be grandfathered in. In talking to a congressman about the situation down here in Dade County, his first question was are you going to grandfather in the people who have had this fight? Because they are still paying fines, they are still having court cases, so if you're going to exempt and you are going to lower fines or not have fines, right away you should take care of this problem immediately. But the other problem is, by the time you do this, which is what? You said March 9th is the last meeting, we've already lost more people in agriculture. I know Michelle Garcia, her house is already gone. So that's another nursery down the tubes. If this was in place, she probably wouldn't have been down the tubes. So that really needs to be addressed in this whole paper, whatever. That should be taken care of immediately, that fine should be dropped, you can't give them back their money or their homes, but the fine should be dropped and given amnesty immediately. That's it."</p> <p>The chair advised the members of the public that a new draft will be posted on the website before the next meeting.</p>
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GENERAL DISCUSSION

TASK FORCE MEMBERS

DISCUSSION	<p>Chair recognized the task force members for general discussions and additional direction to staff for the next draft.</p> <p>Alice Pena submitted a letter from the Spanish American League Against Discrimination (SALAD) to be included in the records.</p>
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SET AGENDA/POLL MEMBERS FOR NEXT MEETING

TASK FORCE MEMBERS

DISCUSSION	<p>Chair set, after unanimous vote from members present, for the next meeting to be scheduled for February 23, 2012 at 1pm at the present location with a tentative lock in date for the second meeting on March 14, 2012.</p>
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MEETING ADJOURNED	4:41 pm
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